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SENATE BILL 1974 By
Koella

HOUSE BILL 1967
By Clabough

AN ACT to amend Chapter 463 of the Private Acts of 1941; as amended by Chapter 672 of the Private Acts of 1951; Chapter 78 of the Private Acts of 1975 and Chapter 355 of the Private Acts of 1982; and any other acts amendatory thereto, relative to the Charter of the City of Townsend.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Section 3 of Chapter 463 of the Private Acts of 1941, as amended, being the Charter of the City of Townsend, is hereby amended by deleting Subsection (1) and by substituting instead the following:

(1) To assess, levy and collect taxes for all general and special purposes on all subjects or objects of taxation and privileges taxable by law for state, county or city purposes.

SECTION 2. Section 3 of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by deleting the second paragraph of Subsection (2).

SECTION 3. Section 3 of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by deleting Subsection (5) and by substituting instead the following:

(5) To incur debts by borrowing money or otherwise, and to give any appropriate evidence thereof, in the manner hereinafter provided."

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SECTION 4. (a) Section 3, Subsection (7) of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by deleting the word "require" and by substituting instead the word "acquire".

(b) Section 3, Subsection (7) of Chapter 463 of the Private Acts of 1941, as amended, is hereby further amended by deleting the word "within" and by substituting instead the words "within or without".

SECTION 5. Section 3 of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by inserting the following words immediately preceding the final period "." of Subsection (8):

or in such other manner as may be provided by general law.

SECTION 6. Section 3 of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by deleting Subsection (10) and by substituting instead the following:

(10) To grant any person, firm, association or corporation franchises for public utilities and public services to be furnished the City and those therein. Such power to grant franchises shall embrace the powers hereby expressly conferred, to grant exclusive franchises; and when an exclusive franchise is granted it shall be exclusive not only as against any other person, firm, association or corporation, but also as against the City itself. Franchises may be granted for a period of twenty-five (25) years or less, but not longer. The Board of Commissioners may prescribe in each grant of a franchise, the rates, fares, charges and regulations that may be made by the grantee of the franchise. Franchises may by their terms apply to the territory within the corporate limits of the City at the date of the franchises, and as said corporate limits may thereafter be enlarged; and to the then existing streets, alleys and other thoroughfares, and to any other streets, alleys and other thoroughfares that thereafter may be opened."

SECTION 7. Section 3, of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by deleting Subsection (11) and by substituting instead the following:

(11) To make contracts with any person, firm, association, or corporation, for public utilities and public services to be furnished the City and those therein. Such power to make contracts shall embrace the power, hereby expressly conferred, to make exclusive contracts; and when an exclusive contract is entered into, it shall be exclusive not only as against any other person, firm, association or corporation, but also as against the City itself. Such contracts may be entered into for the period of twenty-five (25) years or less, but not longer. The Board of Commissioners may prescribe, in each such contract entered into, the rates, fares, charges and regulations that may be made by the person, firm, association or corporation with whom the contract is made. Such contracts may by their terms apply to the territory within the corporate limits of the City at the date of the contract, and as said corporate limits thereafter may be enlarged; and to the then existing streets, alleys and thoroughfares and to any other streets, alleys and other thoroughfares that thereafter may be opened.

SECTION 8. Section 3 of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by adding the following language to the end of Subsection (12):

Nothing herein shall be construed to permit the alteration or impairment of any of the terms or provisions of any explicit franchise agreement or of any exclusive contract entered into under Subsections (10) and (11) of this Section.

SECTION 9. Section 3, Subsection (18) of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by deleting the word "traces" and by substituting instead the word "trades".

SECTION 10. Section 3 of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by deleting Subsection (22) and by substituting instead the following:

(22) To regulate the percentage of any lot which may be occupied by, and the bulk, height, design, sanitary equipment, construction and materials of, all new buildings and structures and the manners or methods of prosecuting the constructing of the same and of repairing and altering all buildings and structures so as to such extent as may be

necessary to protect and promote public health, morals and safety; to inspect all buildings, structures, lands, places and things as to their condition for health, cleanliness and safety, and when necessary for the preservation of the public health, morals or safety, to prevent the use thereof or to require any reasonable alterations, cleaning, additions or equipment thereof or thereto which may be necessary to make the same healthful, clean or safe.

SECTION 11. Section 3 of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by deleting Subsection (24) and by substituting instead the following:

(24) To contract with Blount County to keep persons convicted in the City court of offenses against the laws and ordinances of the City or who fail to secure the fines and costs imposed upon said persons, and otherwise to provide for the confinement and detention of said persons, in the workhouse of said county, and to provide by said contract and by ordinance for the commitment of said persons to the workhouse so provided until such fines and costs shall be fully paid.

SECTION 12. Section 3, Subsection (25) of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by deleting the words, figures and symbols "Fifty (50) Dollars" and by substituting instead the words, figures and symbols "Two Hundred Fifty Dollars (\$250.00)".

SECTION 13. Section 3 of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by deleting Subsection (26) and by substituting instead the following:

(26) To establish schools, determine the necessary boards, officers and teachers required therefor, and fix their compensation, to purchase or otherwise acquire land for school houses, playgrounds and other purposes connected with the schools; to purchase or erect all necessary buildings and to do all other acts necessary to establish, maintain and operate a complete educational system within the City.

SECTION 14. Section 3 of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by deleting Subsection (30) and by substituting instead the following:

(30) To acquire, construct, own, operate and maintain or sell, lease, mortgage, pledge or otherwise dispose of public utilities or any estate or interest therein, or any other utility of service to the City, its inhabitants, or any part thereof.

SECTION 15. Section 3 of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by deleting Subsection (32) and by substituting instead the following:

(32) To regulate and prohibit and suppress theatrical or other exhibits, moving picture shows, amusements, gambling houses, disorderly houses, obscene pictures and literature; and the sale, possession, manufacture or transportation of intoxicating liquors.

SECTION 16. Section 3 of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by adding the following new subsections:

(45) To issue and give, sell, pledge or in any manner dispose of, negotiable or non-negotiable, interest-bearing or non interest-bearing bonds, warrants, promissory notes, or orders of the City, upon the credit of the City or solely upon the credit of specific property owned by the City or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the City, or solely upon the credit of the proceeds of special assessments for local improvements, or upon any two or more such credits.

(46) To provide for the control of the growth of grass and weeds and the accumulation of trash, rubbish and other deleterious or noxious matter upon any property within the City; to require the owner or those in possession of property to keep the same free from the accumulation thereof; to charge such owner or those in possession of property with cost of removal of the same and to impress a lien upon such property to defray the costs therefor.

(47) To create and establish a municipal planning commission in accordance with the provisions of statutory law; to adopt planning regulations in accordance with the provisions of statutory law; and to adopt zoning regulations in accordance with the provisions of statutory law.

(48) To establish by zoning ordinance planned unit development (PUD) requirements which permit flexibility in the regulations of land development, environmental innovation in land use and variety and design layout and type of structures; provide for usable open spaces, landscaped and developed recreational facilities which are integrated with the overall development through landscape and architectural treatment; provide for the permitted uses within a PUD; provide for building heights, density area and setback requirements; provide for procedure for the establishment and approval of planned unit developments; provide for the creation and maintenance of common open spaces which are defined as areas within a development designed and intended for the use or enjoyment of all residents of a residential PUD or all tenants or owners of a commercial PUD or of the public in general.

The City is hereby granted the power and authority to prescribe by zoning ordinance the method or methods by which the common open spaces may be owned, maintained, managed and financed.

SECTION 17. Section 5 of Chapter 463 of the Private Acts of 1941, as amended by Chapter 672 of the Private Acts of 1951, Chapter 78 of the Private Acts of 1975, Chapter 355 of the Private Acts of 1982, and all other acts amendatory thereto, is hereby amended by deleting the section in its entirety and by substituting instead the following:

Section 5. *Be it further enacted*, That at the general election held on the first Thursday in August, 1997, there shall be elected from the City at large, by the qualified voters of the City, five (5) Commissioners. The three (3) candidates receiving the highest number of votes shall hold office for a term of four (4) years, and the two (2) candidates receiving the fourth (4th) and fifth (5th) highest number of votes shall hold office for a term of two (2) years. At the general City election next preceding the expiration of the terms of each Commissioner and of each Commissioner thereafter, his successors shall be elected for a term of four (4) years. The term of each Commissioner shall begin on the first day of September next following the election at which said

Commissioner is elected. No person shall be eligible to fill the office of Commissioner unless he shall be a registered voter and have been for at least six (6) months next preceding his election a citizen of the City. Any Commissioner shall be eligible for re-election In case of a tie vote in any vote for the Board of Commissioners, a run-off election will be held to determine that seat on the Board of Commissioners.

At the first regular meeting in September, 1997, the Commissioners shall elect one of their number Mayor for a term of two (2) years. Thereafter at the first regular meeting after their election, the Commissioners shall elect one of their number Mayor for a term of two (2) years.

Any vacancy in the Board shall be filled by appointment by the remaining members thereof, to hold office until the first regular meeting following the next general City election held after the appointed Commissioner's appointment; provided, however, that no Commissioner shall be appointed under this Section at any time when the Board already has one (1) member so appointed, but, in case of an additional vacancy, the said Board shall forthwith, by ordinance or resolution, call upon the Election Commissioners for Blount County to call a special election for the purpose of filling such additional vacancy, whereupon said Election Commissioners shall immediately call such special election and appoint the necessary officers therefor, and said special election shall be held in the same manner as and subject to the regulations in this Charter respecting general City elections, and the Commissioner elected thereat shall hold office for the unexpired term of the Commissioner whose position has become vacant. In the event that any Commissioner appointed by the Board of Commissioners to fill a vacancy as hereinbefore in this Section prescribed shall be appointed to fill a vacancy in the office of any Commissioner whose term would not have expired at the first regular meeting following the next general election held after such appointment, then at such general City election a Commissioner shall be elected to serve from such first regular meeting for the unexpired portion of such term. In the event of the occurrence of any

vacancy in the office of Commissioner which may, under the provisions of this Section, be filled by appointment by the remaining Commissioners and of the failure or neglect of such remaining Commissioners to fill such vacancy within twenty (20) days of its occurrence, it shall be the duty of the Board of Election Commissioners of Blount County, upon the certification of such facts to them by any Commissioner, to call and cause to be held, as hereinabove provided, a special election for the purpose of filling such vacancy.

SECTION 18. Section 6 of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by deleting the section in its entirety and by substituting instead the following:

Section 6. *Be it further enacted*, That the salary of each member of the Board of Commissioners shall be Thirty Dollars (\$30.00) per month.

SECTION 19. Section 7 of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by deleting the section in its entirety and by substituting instead the following:

Section 7. *Be it further enacted*, That the Board of Commissioners shall by ordinance fix the time and place at which the regular meetings of said Board shall be held. Any regular meeting at which a quorum is present may be adjourned by a majority vote of the Commissioners present, either from day to day or from time to time but not over the day before that appointed for the next regular meeting and shall continue as a regular meeting throughout such adjournment.

Whenever, in the opinion of the Mayor, Board of Commissioners, or of any two (2) Commissioners, the welfare of the City demands it, the Mayor or the Recorder may call special meetings of the Board by service of a call to said meeting in person or left at the usual place of residence of each Commissioner, the Mayor and the Recorder. Such notice shall set forth the character of the business to be conducted at such special meeting and no other business shall be considered or transacted thereat.

SECTION 20. Section 16 of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by deleting the section in its entirety and by substituting instead the following:

Section 16. *Be it further enacted*, That the Board of Commissioners shall appoint and fix the salary of all employees of the City who shall hold office at the pleasure of the Board. All employees of the City shall serve at the pleasure of the Board of Commissioners. Unless otherwise provided by the Charter, the Mayor shall make appointments, promotions, transfers, demotions, suspensions and removal of employees with an approval of two-thirds (2/3) of the Board of Commissioners. The Board may delegate this authority to department heads, as may be provided for by ordinance.

Except as otherwise provided in this Charter, the compensation of all officers and employees of the City shall be fixed within the limits of budget appropriations adopted by the Board of Commissioners. The compensation of officers and employees as fixed or otherwise provided for by this Charter shall be in full payment for all official services of such officers or employees, and shall be in lieu of any and all fees, commissions, and other compensation which may be receivable by such officers and performance of the duties of their offices; and such fees, commissions and compensations shall belong to the City, be collected and accounted for such officers, and be, paid over to the City.

The Board may provide for the retirement of the City's full-time non-elective officers and employees and make available to them any group, life, hospital, health, or accident insurance, either independently of, or as a supplement to, any retirement or other employee welfare benefits otherwise provided by law.

The Board of Commissioners shall prescribe by ordinance appropriate procedures with respect to resignations and leaves of absence of officers and employees and with respect to the orderly transfer of records, assets, and other effects in the custody of such officers and employees to their successors or supervisors.

The Board of Commissioners may, by ordinance, adopt supplemental rules and regulations governing employment by the City, not inconsistent with the provisions of this Charter.

SECTION 21. Section 20 of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by deleting the section in its entirety and by substituting instead the following:

Section 20. *Be it further enacted*, That the city attorney shall be an attorney at law licensed to practice in the courts of the State.

The city attorney shall direct the management of all litigation in which the City is a party including the function of prosecuting attorney in the City court, representing the City in all legal matters and proceedings in which the City is a party or interested, or in which any of its officers are officially interested; attend such meetings of the Board of Commissioners as the Board may direct; advise the Board, and the committees or members thereof, the Mayor, the Recorder and heads of all departments and divisions, as to all legal questions affecting the City's interest; and approve as to form all contracts, deeds, bonds, ordinances, resolutions and other documents to be signed in the name of or made by or with the City.

The city attorney shall receive such compensation as may be decided by the Board of Commissioners.

SECTION 22. Sections 21 through 29, inclusive, and Sections 35-38, inclusive, of Chapter 463 of the Private Acts of 1941, as amended by Chapter 355 of the Private Acts of 1982, and any other acts amendatory thereto, are hereby amended by deleting the sections in their entirety and by substituting instead the following new language, to be designated as "Section 21" and entitled "CITY RECORDER AND FISCAL AFFAIRS":

Section 21. *Be it further enacted*, That the Board of Commissioners shall appoint a city recorder, who also may be appointed to the positions of finance director or treasurer or both.

In the event of the temporary absence or disability of the recorder, the Board may appoint a recorder pro tempore.

It is the duty of the recorder to be present at all meetings of the Board, and to keep a full and accurate record of all business transacted by the same, to be preserved in permanent book form.

The recorder shall have custody of, and preserve in the recorder's office, the city seal, the public records, original rolls of ordinance, ordinance books, minutes of the Board, contracts, bonds, deeds, certificates, papers, all official indemnity or security bonds (except the recorder's bond, which shall be in the custody of the Mayor), and all other bonds, oaths and affirmations, and all other records, papers, and documents not required by this Charter or by ordinance to be deposited elsewhere, and register them by numbers, dates, and contents, and keep an accurate and modern index thereof.

The recorder shall provide, and when required by any officer or person, certified copies of records, papers, and documents in the recorder's office, and charge therefor, for the use of the City, such fees as may be provided by ordinance, cause copies of ordinances to be printed, as may be directed by the Board, and keep them in the recorder's office for distribution.

The recorder shall be the head of the department of finance. The recorder shall receive a salary to be fixed by the Board of Commissioners, give such bond to the City for not less than Five Thousand Dollars (\$5,000.00) or as may be provided by ordinance, and shall have a seat and voice, but not a vote, on the Board of Commissioners.

The recorder shall, by the recorder's signature, and the city seal, attest all instruments signed in the name of the City, and all official acts of the Mayor. The city recorder shall have power to administer oaths.

The recorder, as the head of the department of finance, shall exercise the general supervision over the fiscal affairs of the City, and general accounting supervision over all of the City's property, assets and claims and the disposition thereof. The recorder shall be the general accountant and auditor of the city. The recorder shall have custody of all records, papers and vouchers relating to the fiscal affairs of the city. The

records in the recorder's office shall show the financial operations and conditions, property, assets, claims and liabilities of the city, and all expenditures authorized and all contracts in which the city is interested. The recorder shall require proper fiscal accounts, records, settlements and reports to be kept, made and rendered to the recorder by the several departments and officers of the city, including all deputies or employees of his department charged with the collection or expenditures of money, and shall control, and continually audit, the same. The recorder shall, at least monthly, adjust the settlements of officers engaged in the collection of the revenue.

The recorder, with the approval of the Board of Commissioners, shall cause an efficient system of accounting for the city to be installed and maintained.

Except as by this Charter or by law or ordinance otherwise provided, the recorder shall prescribe and regulate the manner of paying creditors, officers and employees of the city. The recorder shall audit all payrolls, accounts and claims against the city and certify thereon the balance as stated by the recorder, but no payroll, account or claim or any part thereof, shall be audited against the city or paid unless authorized by law or ordinance and approved and certified by the Board of Commissioners, and by the head of the department for which the indebtedness was incurred, and the amount required for payment of the same appropriated for that purpose by ordinance and in the treasury. Whenever any claim shall be presented to the city recorder the recorder shall have power to require evidence that the amount claimed is justly due and is in conformity to law and ordinance, and for that purpose the recorder may summon before him any officer, agent or employer, or any department of the municipality, or any other person and examine him upon oath or affirmation relative thereto.

Subject to the provisions of this Charter, warrants shall be issued by the recorder. Each warrant shall specify the particular departmental fund against which it is drawn and shall be payable out of no other fund.

No contract, agreement or other obligation involving the expenditures of money shall be entered into, nor shall any ordinance, resolution or order for the expenditure of money be passed by the Board of Commissioners or be authorized by any officer of the city, unless the recorder shall first certify to the Board of Commissioners or to the proper officer, as the case may be, that the money required for such contract, agreements obligation or expenditure is in the treasury or safely assured to be forthcoming and available in time to comply with or meet such contract, agreement, obligation or expenditure; and no contracts agreement or other obligation involving the expenditure of money payable from the proceeds of bonds of the city shall be entered into until the issuance and sale of such bonds have been duly authorized in accordance with the provisions of this Charter in reference to city bonds.

No contract liability shall be incurred without previous authority of law or ordinance, but the Board of Commissioners may, by ordinance, empower the proper officials to pay out money or incur contract liability for the city for the necessary preservation of the city's credit, or in other extreme emergency, under such restrictions as may be provided in said ordinance; provided that any such liability shall mature not later than one year from the date of its occurrence.

Depositories of the city funds shall be designated by ordinance which ordinance shall, in every case, require the depository, before being given custody of any city funds, to furnish adequate security to protect the interests of the city, either by collateral in the form of bonds, notes or other obligations in which sinking funds of the city may be invested under the provisions of this Charter, in an amount ten percent (10%) in excess of the deposits or by bond in the sum of ten percent (10%) in excess of the deposits with some surety company, satisfactory to the city and authorized to do business in the State of Tennessee, as surety.

The recorder shall cause all stationery and all forms used either in connection with the receipt or disbursement of city funds to be numbered consecutively, and all spoiled or unused forms shall be accounted for.

The Board of Commissioners shall appoint a treasurer. It shall be the duty of the treasurer to collect, receive and receipt for the taxes and all other revenues, bonds of the city, and the proceeds of its bond issues, and to disburse the same. The recorder may be appointed as the treasurer.

The treasurer shall be custodian of all sinking funds established for return bonds of the city to be managed in accordance with the provisions of this Charter or sinking funds.

The fiscal year of the city shall begin on July 1, unless otherwise provided by ordinance.

The Mayor, in conjunction with the city recorder, shall, on or before May 15 of each year, submit to the Board of Commissioners an estimate of the expenditures in revenue of the city for the ensuing fiscal year. The Board of Commissioners shall adopt and publish the annual budget, and shall publish budgetary comparisons of the proposed budget with the prior year (actual) and the current year (estimated), which information shall include the following: (1) Revenues and expenditures for the following governmental funds: general, streets, public works, general purpose school and debt service; (2) Revenues for each fund shall be listed separately by local taxes, State of Tennessee, federal government and other sources; (3) Expenditures for each fund shall be listed separately by salaries and other costs; (4) Beginning and ending fund balances shall be shown for each fund; (5) The number of full-time equivalent employee positions shall be shown for each fund.

The publication shall be in a newspaper of general circulation and shall be published not less than ten (10) days prior to the meeting where the governing body will consider final passage of the budget.

At the end of each fiscal year all unencumbered balances of appropriations in the treasury shall revert to the general fund and be subject to further appropriations, or the Board of Commissioners may by resolution authorize the redemption of outstanding bonds of the city with said unencumbered balances of appropriations in the treasury; such balances shall be considered unencumbered only when the recorder shall certify in writing that the purposes for which they were appropriated have been completely accomplished and that no further expenditure in connection with it shall be necessary.

Any funds which have been appropriated for any purpose and for any reason the expenditure of the same is delayed or postponed, or if there be any idle funds in the city treasury, then said funds may be invested in the United States Government bonds as are provided for investments of sinking funds of said city.

SECTION 23. Sections 30 through 34, inclusive, of Chapter 463 of the Private Acts of 1941, as amended, are hereby amended by deleting the sections in their entirety and by substituting instead the following new language, to be designated as "Section 22":

Section 22. *Be it further enacted*, That the Board of Commissioners may appoint a chief of police and such patrolmen and other members of the police force as may be provided by ordinance.

It shall be the duty of the chief of police and the members of the police force to: (1) preserve order in the city; (2) protect the inhabitants and property owners therein from violence, crime and all criminal acts; (3) prevent the commission of crime, violations of law and of the city ordinances; and (4) perform general police duty, execute and return all processes, notices, and orders of the Mayor, Board of Commissioners, city attorney, and recorder, and all other processes, notices, and orders as in this Charter or by ordinance may be provided.

In time of riot or other emergency, the Mayor or Board of Commissioners shall have power to summon any number of inhabitants to assist the police force.

Members of the police force whenever necessary for the purpose of enforcing the ordinances of the city, shall procure the issuance of warrants, serve the same, and appear in the city courts as prosecutors, relieving complaining citizens insofar as practical of the burden of instituting cases involving the violation of City ordinances; but this Section shall not be construed to relieve any person from the duty of appearing in court and testifying in any case.

The Board of Commissioners shall appoint a chief of the fire department and such other members of the department as may be provided for by ordinance.

It is the duty of the chief of the fire department and the members thereof to take all proper steps for fire prevention and suppression.

The chief of the fire department shall have such powers and authority as may be prescribed by ordinance. When any fire department or company recognized as duly constituted by the Commissioner of Commerce and Insurance pursuant to state law is requested to respond to a fire, service call or other emergency, it may, regardless of where the emergency exists, proceed to the emergency and proceed to the emergency site by the most direct route at the maximum speed consistent with safety. In responding to, operating at, or returning from such emergency, the chief of the responding fire department or company, or any member serving in capacity of fire officer-in-charge, including any assistant chief who may be designated as such, shall also have the authority to: (1) control and direct the activities at the scene of the emergency; (2) order any person or persons to leave any building or place in the vicinity of such scene for the purpose of protecting such person or persons from injury; (3) blockade any public highway, street or private right-of-way temporarily while at such scene; (4) trespass at any time of the day or night without liability while at such scene; (5) enter any building or premises, including private dwellings, where a fire is in progress, or where there is reasonable cause to believe a fire is in progress, for the purpose of extinguishing the fire; (6) enter any building or premises, including private

dwellings, near the scene of the fire for the purpose of protecting the building or premises, or for the purpose of extinguishing the fire which is in progress in another building or premises; (7) inspect for preplanning all buildings, structures, or other places in the chief's fire district, except the interior of a private dwelling, where any combustible material, including waste paper, rags, shavings, waste, leather, rubber, crates, boxes, barrels, rubbish or other combustible material that is or may become dangerous as a fire menace to such buildings, structures or other places has been allowed to accumulate, or where such chief or the chief's designated representative has reason to believe that such combustible material has accumulated or is likely to accumulate; (8) direct without liability the removal or destruction of any fence, house, motor vehicle or other thing, if such person deems such action necessary to prevent the further spread of the fire; (9) request to be furnished with additional materials or special equipment at the expense of the owner of the property on which the emergency occurs, if deemed necessary to prevent the further spread of the fire or hazardous condition; and (10) order disengagement or dis耦lement of any convoy, caravan, or train of vehicles, craft, or railway cars, if deemed necessary in the interest of safety of persons or property.

When any fire department or company responds to any emergency outside its fire district, however, it shall at all times be subject to the control of the fire chief or designated representative in whose district the emergency occurs.

The Board of Commissioners may appoint a fire marshal whose duty shall be, subject to the chief of the fire department, to investigate the cause, origin, and circumstances of fires and the loss occasioned thereby, and assist in the prevention of arson.

SECTION 24. Sections 39 through 41, inclusive, of Chapter 463 of the Private Acts of 1941, as amended, are hereby amended by deleting the sections in their entirety and by substituting instead the following new language, to be designated as "Section 23" and to be entitled "TAXATION, REVENUE AND CITY BONDS":

Section 23. *Be it further enacted,* That the assessment, levy and collection of taxes and special assessments shall be in charge of the department of finance, subject to the limitations elsewhere found in this Charter. All privileges which are taxable by law, and all persons liable for work on the public streets, avenues, alleys or other thoroughfares of the city, or for a tax in lieu of said work when the same shall have become duly assessed for the taxation as now, or may hereafter be, provided by law, by the assessor or assessors elected or appointed under the general laws of the State, or by ordinance of the Board of Commissioners, shall be the basis upon which said privilege shall be taxed and taxes collected by the City of Townsend for municipal purposes as hereinafter provided.

License taxes may be imposed by ordinance upon merchants and on all other privileges, occupations, vocations, pursuits or callings, or any class or classes thereof, now or hereafter subject to taxation under the laws of Tennessee; and a separate license tax may be imposed for each place of business conducted or maintained by the same person, firm or corporation.

The foregoing enumerations shall not be taken to affect or impair the general power of the city to impose license taxes upon any business, vocation, pursuit or calling or any class or classes thereof now or hereafter not prohibited by law. The city shall not be required to assess privileges at the same rate as if fixed by the State statutes.

The treasurer shall enforce the collection of merchants' taxes and all other license taxes, and for that purpose shall have and exercise the powers by law vested in, and follow the procedures and methods prescribed for, county court clerks.

Some of the purposes hereby especially authorized for which the bonds of the city may issue and be given, sold, pledged or disposed of on the credit of the city, or solely upon the credit of specific property owned by the city or solely upon the credit of income derived from any property used in connection with any public utility owned or operated by the city, or upon any two or more such credits are the following: For the

acquiring of lands; for the purchase, construction, reconstruction or extension of waterworks, public sewers, streets, alleys, buildings and equipment for the fire department, bridges and viaducts, gas or electric light works, power plants, police, patrols and fire alarm systems; for hospitals, jails, workhouses, and other charitable, corrective and penal institutions; for courthouses, libraries and other public buildings; public parks, parkways, boulevards, grounds, squares, and any other public improvements which the city may be authorized or permitted to make; for the purchase of lands or other property, real or personal, for school purposes, the construction or purchase of buildings and equipment for school purposes; and for the purchase of playgrounds either in connection with the schools or separate therefrom and for paying, refunding, or removing any bond or indebtedness of the city, and also any such floating indebtedness thereof as may be incurred for and in the acquisition of tangible assets for public improvements, but no other floating indebtedness. The foregoing enumerations shall not be construed to limit any general provisions of this Charter authorizing the city to borrow money or issue and dispose of bonds, and such general provisions shall be construed according to the full force and effect of their language as if no specific purpose had been mentioned, and the authority to issue bonds for any of the purposes aforesaid is cumulative and shall not be construed to impair any authority to make any public improvements.

As to the date of their maturities bonds may be either straight, serial or equal installment bonds, and may be subject to call and redemption with or without the payment to the holders thereof at a premium or bonus, all as the Board of Commissioners may by ordinance determine. Bonds may be payable, principal and interest, either in lawful money of the United States or in gold coin of the United States of or equal to the present standard of weight and fineness, at such place or places either within or without the State of Tennessee or both, may be payable to the bearer, or to the registered holder, or to the bearer or registered holder with privilege of registry as to

principal and interest, or either, at the option of their holders with such registrars, either within or without the State of Tennessee, and may be authenticated by and issued through such registrars or transfer agents, either within or without the State of Tennessee, all as the Board of Commissioners may by ordinance determine. Bonds may be sold at public or private sale and may be issued in payment for property acquired by the city, as the Board of Commissioners may by ordinance determine.

The Board of Commissioners shall estimate the probable life of improvements proposed to be erected or purchased with any bonds or their proceeds and the term of such bonds shall not exceed such probable life, provided, that such estimate, if erroneous, shall not affect the validity of such bonds. All long-term bonds shall be sinking fund bonds and the amount of the annual installments to be paid into the sinking fund shall be fixed by the Board of Commissioners for each bond issued and such sinking fund installments shall be a prior lien on the tax levy each year; in the case of equal installment bonds such annual sinking fund installment so fixed need not be more than equal to each annual payment on such bonds required by their terms, and in the case of any issue of serial bonds, the several series of which are of equal aggregate par value, and fall due at equal intervals, between the date of such bonds and the date of maturity of the last series thereof, the annual sinking fund installments of such issue need not be more than sufficient to provide for the payment at its maturity of the series of said issue next falling due.

No bonds of the city, except bonds for paying, refunding or removing bonded indebtedness, except bonds issued under the provisions of statutory law, shall be issued without the assent of a majority of the qualified voters, actually voting at an election held for that purpose; provided, however, that the Board of Commissioners may issue bonds without calling an election, the total not to exceed Twenty Thousand Dollars (\$20,000.00) in amount in any one year, and provided, that the proceeds of such bonds

as issued without an election shall be used only for the acquisition of tangible assets for public improvements or in the exercise of purely municipal or governmental purposes.

The Board of Commissioners may, by ordinance or resolution, notify and call upon the Board of Election Commissioners of Blount County, to call elections respecting bond issues and may by ordinance, or resolution, prescribe the questions to be submitted in any such election, and the amounts, terms, purposes, issue and disposition of the bonds to be voted upon thereat. It shall not be necessary in the notice of election, in the questions submitted, on the ballot, or in any of the matters preceding such election, to state the amount of bonds proposed to be issued for each purpose, but it shall be sufficient that the ordinance, or resolution and the notice of election, state the total amount of bonds, proposed to be voted upon at said election, and in general language, the purposes for which such total amount of bonds is to be issued, and if a majority of the voters of the city voting at such election assent to the issuance of the amount of bonds, then such amount may be issued, and such bonds, or the proceeds thereof, may from time to time, by ordinance adopted by the Board of Commissioners, be appropriated in any amount, or amounts, to the purpose or purposes for which such total amount was voted. More than one issue of bonds may be voted upon at a single election, and in case more than one issue is so voted upon the several issues may be submitted by one question, or by as many questions as the Board of Commissioners may determine.

Whenever any bonds, interest coupons, or other written evidence of the city's debt shall be paid and discharged, they shall be canceled by the recorder.

The canceled bonds, coupons and other evidences of debt shall be filed and presented for examination in annual audits.

However, the Board of Commissioners may by proper ordinance authorize any paying agent or agents for bonds and coupons issued by the city, to cancel, to cremate and to account for bonds, coupons and other evidences of the city's obligations by

proper designation of the paying agent or agents as cremation and accounting agents for the bonds, coupons and other evidences of indebtedness of the City of Townsend and by requiring such cremation agent or agents when called upon by the city to provide the city with a certificate containing a statement and schedule of the payments of the city's debts, which certificate shall set forth the issue, account, number and face value of such indebtedness and which certificate shall be submitted to the Board of Commissioners and entered as filed on the minutes of the Board of Commissioners and retained for proper examination in annual audits.

All sinking funds of the city shall be invested by the recorder, by, and with the consent of the Board of Commissioners, in (a) the interest-bearing bonds, notes or obligations of the United States, or of those for which the United States has pledged to provide for the payment of the interest and principal, including the bonds of the District of Columbia; (b) the interest-bearing bonds, notes or other obligations of the State of Tennessee, issued pursuant to the authority of any law of the state; (c) the interest-bearing bonds, notes or other obligations of any other state of the United States, issued pursuant to the authority of any law of such state, upon which there is no default, and upon which there has been no default, for more than ninety (90) days; provided that within ten (10) years immediately preceding the investment, such state has not been in default for more than ninety (90) days in the payment of any part of principal or interest, of any debt duly authorized by the legislature of such state to be contracted by such state; (d) the interest-bearing bonds, notes, or other obligations of any county, or of any incorporated city of the State of Tennessee, provided, that they were issued pursuant to law and are a direct and binding obligation of the entire county or city, and that the full faith and credit thereof are pledged for their payment; and (e) the interest-bearing bonds, notes or other obligations of any county or of any incorporated city, situated in one of the other states of the United States, provided, that they were issued pursuant to law and are a direct and binding obligation of the entire county or city, and that the full faith and

credit thereof are pledged for their payment, and provided, further, that said county or city has a population as shown by the federal census next preceding such investment, of not less than Fifty Thousand (50,000) inhabitants, or of not less than Twenty-five Thousand (25,000) inhabitants, respectively, and has not defaulted for more than ninety (90) days in the payment of any part either of principal or interest, of any bond, note or other evidence of indebtedness, issued by said county or city. But if after such default on the part of any such county or city, the debt or security, and the payment of the principal or interest of which such default occurred, has been fully paid, refunded or compromised for the issue of new securities, then the date of the first failure to pay principal or interest, when due, upon such debt or security, shall be taken to be the date of such default, within the provisions of this subdivision, and subsequent failures to pay installments of principal or interest upon such debt or security, prior to the refunding of final payment of the same, shall not be held to continue said default, or to fix the time thereof, within the meaning of this subdivision, at a date later than the date of first failure in payment. If, at any time, the indebtedness of any such county or city, together with the indebtedness of any district, or other municipal corporation, or subdivision, except a county or a city, which is wholly or in part, included within the bounds or limits of said city or of said county, less its water debt and sinking funds, shall exceed seven percent (7%) of the valuation of said county or of said city, for the purpose of taxation, its bonds, notes and other obligations shall thereafter, and until such indebtedness shall be reduced to seven percent (7%) of the valuation for the purposes of taxation, cease to be an authorized investment under this Section.

The recorder, by and with the consent of the Board of Commissioners, may sell the securities belonging to a sinking fund, or any part of them, on the best obtainable terms, at any time when the proceeds thereof may be needed for the payment at their maturity, or the redemption upon call of bonds of the city for which such fund has been accumulated, or for the purchase of bonds of the city for which such fund has been

accumulated which, with advantage to the city, may be purchasable by it; and any bonds of the city so paid, redeemed or purchased, and their attached coupons, shall be canceled forthwith.

The recorder, by and with the consent of the Board of Commissioners may exchange any securities belonging to a sinking fund for bonds of the city for which such funds have been accumulated whenever such change may be advantageous for the city, and bonds of the city so acquired, with their attached coupons, shall be canceled forthwith.

The recorder, by and with the consent of the Board of Commissioners, may whenever it may be advantageous for the city, sell the securities belonging to a sinking fund, or any part of them, on the best obtainable terms, and re-invest the proceeds thereof in other securities which are, under this Section, lawful investments for sinking funds of the city.

If the amount of any sinking fund, with the interest or revenue thereof, computed to the maturity of the city bonds, be sufficient to pay at maturity all of the bonds for which it is held, the levy of the tax for such sinking fund may then be omitted, but if by reason of decrease of interest or depreciation of investments or other cause said funds should not be sufficient, the levy shall be resumed.

Any monies remaining in a sinking fund, after payment of the entire bonded debt for which it was accumulated, shall be paid into the general fund.

SECTION 25. Section 42 of Chapter 463 of the Private Acts of 1941, as amended by Chapter 78 of the Private Acts of 1975, Chapter 355 of the Private Acts of 1982, and any other acts amendatory thereto, is hereby amended by deleting the section in its entirety and by substituting instead the following new language, to be designated as "Section 24":

Section 24. *Be it further enacted*, That a General City Election shall be held on the first Thursday in August, 1998. Thereafter a General City Election shall be held on the first Thursday in August in each even-numbered year.

All persons who are bona fide residents of the City of Townsend and who are qualified to vote for members of the state legislature and have registered shall be entitled to vote in said election.

Polling places for municipal elections shall be fixed by the Board of Election Commissioners of Blount County, and ballots for municipal elections shall be furnished at the expense of the City. Neither the City attorney, recorder, city judge, chief of police nor any person in the employ of the City under any of the said offices shall take any active part in or contribute any money toward the nomination or election of any candidate for election to the Board of Commissioners, except to answer such questions as may be put to them and as they may desire to answer. A violation of this Section shall subject the offenders to removal from office or employment and to punishment by fine of not more than Fifty Dollars (\$50.00) for each offense.

No candidate for any office nor any person shall directly or indirectly give or promise any person or persons any office, employment, money, benefit or anything of value for the purpose of influencing or obtaining political support, aid, or vote for such candidate, and any person violating this provision shall be punished by fine of not more than Fifty Dollars (\$50.00) for each offense.

SECTION 26. Section 43 of Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by deleting the section in its entirety and by substituting instead the following new language, to be designated "Section 25":

Section 25. *Be further enacted*, That all ordinances shall begin: 'Be it ordained by the City of Townsend, as follows:"

Every proposed ordinance shall be introduced in writing, in the form required for final adoption. Prior to or upon the introduction of said ordinance, a copy shall be distributed to each member of the Board of Commissioners, the City Recorder, and the City Attorney. The body of the ordinance may be omitted from the official minutes, but reference thereto shall be made to the ordinance by title and/or subject matter. Every

ordinance shall be passed on two (2) different days at regular, special or adjourned meetings, except only emergency ordinances, and not less than one (1) week shall elapse between the first and second passage. The Board may read only the caption of an ordinance, instead of the entire ordinance, on both readings. An emergency ordinance may be enacted upon the day of its introduction provided it shall contain the statement that an emergency exists and shall specify with distinctness the acts and reasons constituting such emergency. The unanimous vote of all members of the Board present and not less than four (4) members shall be required to pass an emergency ordinance.

Copies of all ordinances shall be made available during the regular business hours at the office of the City Recorder and during sessions in which the ordinance has its first and second readings.

No ordinance making a grant, renewal or extension of a franchise or other special privilege or regulating the rate to be charged for services by any public utility shall be passed as an emergency ordinance.

Except in the ordinance adopting the budget, no material or substantial amendment may be made on second passage unless the amendment be passed in the same manner as an amendment to an existing ordinance.

No ordinance of a penal nature shall take effect until ten (10) days after the final passage thereof. Any other ordinance, including an emergency ordinance, may be enacted to take effect forthwith upon its final passage or to take effect at a specified future time in the discretion of the Board of Commissioners.

No ordinance shall be amended or repealed except by a new ordinance.

In all cases of vote on an ordinance, the vote shall be determined by yeas and nays, and the names of the members voting for or against an ordinance shall be entered in the official minutes.

Every ordinance shall be immediately taken charge of by the Recorder, copied in an ordinance book filed and preserved in the Recorder's office.

All ordinances of a penal nature hereinafter passed shall be published at least once in an official newspaper of general circulation in the city or county and no such ordinance shall be in force until it is so published.

SECTION 27. Sections 44 through 50, inclusive, of Chapter 463 of the Private Acts of 1941, as amended, are hereby amended by deleting the sections in their entirety and by substituting instead the following new language, to be designated "Section 26":

"SECTION 26. *Be it further enacted*, That the work and affairs of the City may be classified and arranged conveniently and conducted efficiently, the Board of Commissioners may establish the following departments: (1) Department of Finance; (2) Department of Education; (3) Department of Public Safety; and (4) Department of Public Works and Welfare, and such other departments, as from time to time, the Board may deem necessary and as which may be allowed under state law.

The Board of Commissioners shall fix all salaries in all departments except the department of education, which shall be set by any board of education which may be created pursuant to a budget which must be approved by the Board of Commissioners, and likewise the Board of Commissioners shall prescribe the duties and functions of all departments except as fixed by this Charter and except with respect to any department of education where the duties and functions shall be established by any board of education which may be created, and the Board of Commissioners may, by majority vote of its entire membership, create new departments, combine or abolish existing departments, or establish temporary departments for special work.

The Board of Commissioners shall supervise and control all departments now or hereafter created, except as otherwise provided by this Charter.

SECTION 28. Section 28 of Chapter 463 of the Private Acts of 1941, as amended by Chapter 355 of the Private Acts of 1982, and any other acts amendatory thereto, is hereby amended by deleting the language of the section in its entirety and by substituting instead the following:

Section 28. *Be it further enacted,* That a City Judge who shall constitute the City Court shall be appointed by the Board of Commissioners to serve at the will of the Board or for a term to be fixed by ordinance. Said Judge shall be a qualified attorney licensed to practice law in the State of Tennessee and shall take the same oath required of the Commissioners. He shall receive such compensation as may be provided by ordinance. Nothing herein is to be construed as prohibiting the City Judge from also serving in administrative duties under this Charter. In the absence or disability of the City Judge, the Board of Commissioners shall designate a qualified person to serve as City Judge. In the event a term of office is provided by ordinance, there shall also be provided the conditions which will create a vacancy in the office, how the vacancy shall be filled, and such other matters as the Board of Commissioners deems necessary.

The City Judge shall try all persons charged with violations of the Ordinances of the City. He shall have power to levy fines, penalties and forfeitures not exceeding Two Hundred Fifty Dollars (\$250.00) for each offense and to impose such costs as the Board of Commissioners may by ordinance provide, to issue all necessary process, to administer oaths, and to punish for contempt by fine not exceeding Fifty Dollars (\$50.00) as provided by law. The City Judge may remit, with or without condition, fines and costs imposed for violation of any ordinance of the City.

The bail of persons arrested and awaiting trial and persons appealing the decision of the City Judge shall be fixed by the City Judge and upon such security as in his discretion he deems necessary or as otherwise provided by ordinance. Cash bail of persons arrested may be accepted at such times and by officials other than the City Judge as provided by ordinance, but no officer shall accept cash bail unless the person

arrested shall be given a receipt which shall explain the nature of the deposit. The receipt shall be in duplicate and a copy of the money deposited shall be filed with the City Judge within twenty-four (24) hours of the arrest.

Fines and costs may be paid by installments to be fixed and security determined as provided by ordinance. Any person failing to pay fines and costs or to furnish security may be held in contempt of court.

The City Judge shall keep a docket. The Board of Commissioners may by ordinance require such other records, fix the time for holding court, and provide such other rules and regulations for the proper functioning of the Court as deemed necessary. The City Judge shall be the exclusive judge of the law and facts in every case before him, and no official or employee of the City shall attempt to influence his decision except through pertinent facts presented in Court.

SECTION 29. Chapter 463 of the Private Acts of 1941, as amended, is hereby amended by adding the following new sections, to be designated "Sections 29 through 31":

Section 29. *Be it further enacted*, That the present City Board and City Officials shall hold office until their successors are elected and qualified. Nothing in this Act shall be construed as having the effect of removing any incumbent from office or abridging the term of any official prior to the end of the term for which he was elected.

Section 30. *Be it further enacted*, That all contracts and other obligations lawfully entered into by the City for its benefit prior to the taking effect of the provisions of any amendment to the Charter of the City of Townsend, Tennessee shall continue in full force and effect.

Section 31. *Be it further enacted*, That all ordinances and resolutions in force at the time of the taking effect of any amendments to the Charter of the City of Townsend, Tennessee, and not inconsistent therewith, shall continue in force and effect until amended or appealed.

SECTION 30. If any section or part of the section of this Act proves to be invalid or unconstitutional, the same shall not be held to invalidate or impair the validity, force or effect of any other section or part of section of this Act, unless it clearly appears that such other section or part of section is wholly or necessarily dependent for its operation upon this section or part of section held to be constituted invalid.

SECTION 31. All acts and parts of acts in conflict with this act are hereby repealed.

SECTION 32. This Act shall have no effect unless it is approved by a two-thirds (2/3) vote of the legislative body of the City of Townsend. Its approval or non-approval shall be proclaimed by the presiding officer of the legislative body and certified by him to the Secretary of State.

SECTION 33. For the purpose of approving or rejecting the provisions of this Act, it shall be effective upon becoming law, the public welfare requiring it. For all other purposes, it shall become effective upon being approved in Section 32.